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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,531	08/28/2003	Tobias Horngren	14069.2US01	9032

23552 7590 02/02/2007  
MERCHANT & GOULD PC  
P.O. BOX 2903  
MINNEAPOLIS, MN 55402-0903

EXAMINER
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BOSWELL, CHRISTOPHER J

ART UNIT	PAPER NUMBER
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3676

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/02/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/650,531

Applicant(s)

HORNGREN ET AL.

Examiner

Christopher Boswell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-7,9-29,31 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9-29,31 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-7, 9-29, and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication Number 2002/0003095 to Jaeb et al.

Jaeb et al. disclose a security device for retaining items having a first security member (12) and a second security member (14), wherein the first and second security members are engaged at a closed position for retaining an item, a lock slide (18) mounted to the first security member (figure 1) and displaceable while remaining mounted to the first security member between an unlocked position (figure 2) wherein the security device can be opened and a locked position (figure 3) for maintaining the security device in the closed position, and latch (21) including a spring blade (72) configured to engage with a stop member (70) for maintaining the lock slide in the locked position, wherein the lock slide comprises a magnetic resilient material (paragraph 39), the spring blade forms an integral part of the first security member, and the stop member is arranged on the lock slide (figures 10-14), as in claim 1, except for the spring blade being on the security member and the stop member being arranged on the lock slide. It would have been obvious to one having ordinary skill in the art at the time the invention was made to reverse the locations of the spring blade and the stop member, where the spring blade would

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extend from a principal plane of the lock slide (reversal of figure 14), as in claim 3, where the spring blade would be configured to engage the stop member (similar to figure 14), in the locked position, as in claim 4, wherein the stop member would be a shoulder portion of a recessed portion on the second security member (reversal of figures 7 and 8), as in claims 5 and 6, since it has been held that a mere reversal of essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167. The reversal of the components would be utilized for the purpose of having security boxes that are easy to unload so that a retail clerk does not have to spend excessive time unlocking and unloading the security storage container as well as maintaining a minimal overall size of the security box (paragraph 6).

Jaeb et al. also disclose the security device having a plurality of spring blades and a plurality of corresponding stop members, spaced apart along the lock slide (figure 18), as in claim 7, as well as the lock slide having a protruding tooth (64), the tooth engages with a projecting tab (50) on the second security member in the locked position, as in claim 9, wherein the tooth is bent out portion of the lock slide, and protruding from a principal plane of the lock slide (figures 4 and 5), as in claim 11, and a plurality of teeth and tabs are provided (figures 1 and 5), spaced apart along the lock slide, as in claim 12, as well as the first security member has a first projecting tab (54), and the second security member has a second projecting tab (50), wherein the second projecting tab passes adjacent to the first tab when assuming the closed position (figures 6-8), wherein the lock slide has a protruding tooth (64) assuming a position between and at least partly overlapping the first and second tabs in the locked position (figures 6-8), as in claim 10.

Jaeb et al. further disclose the security members are configured to completely enclose a retained item in the closed position (paragraph 7), as in claims 13 and 14, where the security members are joined and locked to each other at respective first ends (figure 1), and are hinged together (16) at respective second ends opposite the first ends, as in claim 15, as well as the security members are joined and locked to each other at respective first ends (figures 1-3), and adapted to be hooked together (hooked together by hinge 16) at respective second ends opposite the first ends, as in claim 16, and where the security members are joined and locked to each other at respective first ends, and at respective second ends opposite the first ends (figure 1 and hinge 16), as in claim 17.

Jaeb et al. additionally disclose the first security member is a base member and the second security member is a lid member, wherein the base and lid members form a box-like structure in the closed position (figure 3), as in claim 18, wherein the base member has a front wall carrying the lock slide on an inner side thereof (30), and the lid member has a front wall positioned on an inner side of the lock slide in the locked position (40), as in claim 19, as well as the lid member having a flange (42) projecting from the front wall thereof, wherein the flange in the closed position engages with the front wall of the base member and encloses the lock slide in the box-like structure (figure 1), as in claim 20, and where the lock slide further comprises a maneuver means (66) projecting through an aperture (68) in a side portion of the first security member, as in claim 21, and further comprising an alarm tag (paragraph 41), as in claim 22.

Jaeb et al. also disclose a security device for holding items, having a first security member (12) and a second security member (14), wherein the first and second security members are engaged at a closed position for retaining an item (column 5, lines 35-38), a lock slide (18) mounted to the first security member (column 5, lines 42-48) and including a stop member (70) and displaceable while remaining mounted to the first security member (figure 1) between an unlocked position (figure 2) wherein the security device can be opened and a locked position (figure 3) for maintaining the security device in the closed position, and a latch (72) for maintaining the lock slide in the locked position, wherein the latch is carried on the first security member (figures 11 and 14), and is configured to engage with the stop member in the locked position (figure 14), as in claim 23, except for the stop member being arranged on the second security member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to reverse the locations of the latch means and the stop member, where the stop member is a shoulder portion that would be a recessed portion on the second security member (reversal of figures 11 and 14), as in claims 28 and 29, and where the latch would be integral with the lock slide (reversal of figures 5 and 6), as in claim 25, since it has been held that a mere reversal of essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167. The reversal of the components would be utilized for the purpose of having security boxes that are easy to unload so that a retail clerk does not have to spend excessive time unlocking and unloading the security storage container as well as maintaining a minimal overall size of the security box (paragraph 6).

Jaeb et al. further disclose the latch means comprising a spring blade (72) extending from a principal plane of the lock slide, as in claim 24, and where the spring blade is configured to

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engage with the stop member (figures 11 and 14) in the locked position, as in claim 26, as well as the latch means having a plurality of spring blades and a plurality of corresponding stop members, spaced apart along the lock slide (figure 18), as in claim 27, as well as the security device having an alarm tag (paragraph 41), as in claim 31, wherein the latch comprises a resilient magnetic material (paragraph 39), as in claim 32.

### *Response to Arguments*

Applicant's arguments filed November 11, 2006 have been fully considered but they are not persuasive. In regards to the argument that Jaeb et al. fails to disclose a resilient magnetic material as required by claim 1, the examiner respectfully disagrees. Jaeb et al. clearly discloses element 72 being made from a material that may be moved in a magnetic field (paragraph 39), where element 72, the locking member, is an essential component of the latching assembly and functionally locks the storage container, and thus the locking member is made from a resilient magnetic material that is an integral part of the latch, wherein one with ordinary skill in the art could reverse the locations of the latch components and have the locking member being attached to the lock slide and functionally engaging a stop that would be located on the security member.

Regarding the argument that the spring blade of Jaeb et al. is not an integral part of the lock slide, the examiner respectfully disagrees. The definition of integral is being formed as a unit with another part or essential to completeness, wherein the spring blade of Jaeb et al. is an essential component to the latch assembly.

In regards to the argument that Jaeb et al. fails to disclose the stop member being arranged on the second security member, the examiner points to the obviousness rejection were

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in one with ordinary skill in the art with the ability to reverse the locations of the spring blade and the stop member would know that a stop member would be needed to stop the movement of the slide member and actuate the latching assembly to securely lock the first security member to the second security member.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Boswell whose telephone number is (571) 272-7054. The examiner can normally be reached on 9:00 - 4:00 M-F.




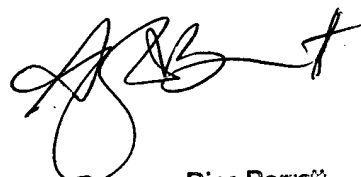
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher Boswell  
Examiner  
Art Unit 3676

CJB   
January 29, 2007

  
Suzanne Dino Barrett  
Primary Examiner